



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0386; FRL-10021-70-Region 5]

Air Plan Approval; Indiana; Monitoring requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to Indiana's State Implementation Plan (SIP) to address changes to its air emissions monitoring rules for Portland cement plants. Indiana revised its rules for Portland cement plants to update the monitoring of particulate matter (PM) emissions to allow the use an additional monitoring method. This additional monitoring option is consistent with EPA's recent revisions to Federal requirements for Portland cement plants.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0386 at <http://www.regulations.gov>, or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background

On July 24, 2020, the Indiana Department of Environmental Management (IDEM) submitted a request to approve a revision to the Indiana SIP to address changes to the monitoring

requirements at 326 IAC 3-5-1 for Portland cement plants. This revision will allow a single monitoring method to demonstrate compliance with various provisions of the SIP. IDEM revised its rule to be consistent with EPA's revision to the National Emission Standards for Hazardous Air Pollutants (NESHAP) governing Portland cement plants.

EPA previously revised 40 part 63, subpart LLL, the NESHAP for the Portland Cement Manufacturing Industry, on September 9, 2010 (75 FR 54969). This revision removed opacity limits for most Portland cement plant units, including for Portland cement plants' kilns and clinker cooler units because it found PM emissions data to be a more accurate measure to monitor compliance with PM emission limits. Under the revised NESHAP, those units were required to monitor emissions with a PM continuous emissions monitoring system (CEMS) instead of a continuous opacity monitoring system (COMS).

On February 12, 2013, EPA again revised the NESHAP, 40 part 63, subpart LLL (78 FR 10006). The revision updated the PM monitoring requirements for Portland cement plants to replace the compliance basis for PM from monitoring with a CEMS to require a PM continuous parametric monitoring system (CPMS). EPA found technical issues with monitoring PM emissions at Portland cement plants with CEMS because of the size and variability of PM generated by a cement kiln. A PM CPMS system responds to changes in PM concentration of the exhaust allowing Portland cement plants to better determine compliance. The

NESHAP provides the requirements for establishing the parametric operating limits for subject units and requires sources to conduct an annual test that resets the PM CPMS operating limit and sets the standards for continuous monitoring.

Indiana has revised 326 IAC 3-5-1 to allow Portland cement plants to monitor, with a PM CPMS, its kiln or clinker cooler units as an alternate to COMS. Indiana's 326 IAC 3-5-1, as currently approved into the Indiana SIP for PM, requires monitoring with COMS or PM CEMS, while the 2013 NESHAP requires monitoring with PM CPMS. This revision allows Portland cement plants to meet the monitoring requirements for kiln and clinker cooler units with one monitoring system, PM CPMS. Otherwise, Portland cement plants would have to operate two monitoring systems to satisfy the differing SIP and NESHAP requirements.

II. How has the Rule Been Revised?

Indiana revised 326 IAC 3-5-1 (c) to add 326 IAC 3-5-1 (c)(2) that allows Portland cement plants to monitor with a PM CPMS. That rule sets the requirements for the PM CPMS. Those include satisfying the requirements in 40 part 63, subpart LLL. Thus, Portland cement plants in Indiana will have the option of monitoring with COMS, PM CEMS, or PM CPMS in the revised 326 IAC 3-5-1.

Indiana retained 326 IAC 3-5-1 (c)(1) where the requirements for sources, not limited to Portland cement plants, that monitor with a PM CEMS are found. The remaining revisions

to 326 IAC 3-5-1 are administrative revisions such as changing "shall" to "must."

III. What is EPA's Analysis of the Revisions?

Indiana provided a Clean Air Act (CAA) 110(1) analysis as a supplement to its submission. CAA Section 110(1) prohibits EPA from approving a SIP revision if that revision would interfere with any applicable requirement concerning attainment, reasonable further progress, or any other CAA requirement. Indiana concluded that the 326 IAC 3-5-1 revision will not result in an increase in emissions or interfere with Indiana's obligations under the CAA. The State concluded that since Portland cement plants are subject to limits under 40 CFR 63, subpart LLL that are at least as stringent as the State rule. Indiana states that the strict PM emission limits and continuous monitoring requirements have rendered the COMS requirements of 326 IAC 3-5 obsolete for Portland cement plants.

EPA concurs with Indiana's CAA 110(1) analysis that the revision does not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA because it is simply revising the monitoring requirements. EPA, in 40 CFR 63, subpart LLL, Portland cement plants must use PM CPMS to show compliance with the Federal standard. Indiana's rule required such units to monitor with COMS or request Department permission to alternatively operate a PM CEMS. The revised 326 IAC 3-5-1 adds the option for Portland cement plants

to alternatively operate a PM CPMS in accordance with 40 CFR part 63, subpart LLL requirements.

EPA finds that the revised 326 IAC 3-5-1 is consistent with the requirements of 40 part 63, subpart LLL. Indiana's revisions follow the revisions EPA made to the NESHAP.

IV. What Action is EPA Taking?

EPA is proposing to approve revisions to 326 IAC 3-5-1, continuous monitoring requirements, into the Indiana SIP.

V. Incorporation by Reference.

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Title 326 of the Indiana Administrative Code Article 3, Rule 5, Section 1 Applicability; continuous monitoring requirements for applicable pollutants, effective April 24, 2020. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 22, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.